REMARKS

The Office Action dated July 7, 2009 concluded as follows for the subject application:

- Claims 1-3, 9-10, 16-17, 20-23, 26-28, and 34-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin (US Patent No. 6,128,661) in view of Kotzin (US Patent Application No. 20050198376); and

- Claims 5-7, 13-15, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin in view of Kotzin, and further in view of Kock (US Patent Application No. 20040185885); and

- Claims 4 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin in view of Kotzin, and further in view of Mirouze (US Patent Application No. 20040023664); and

- Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin in view of Kotzin, and further in view of Cooper (US Patent No. 5,961,588); and

- Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin in view of Kotzin, and further in view of Novak (US Patent No. 6,882,659).

The rejection is respectfully disagreed with, and is traversed below.

Claims 1, 20, 21, 26, 28, 34, 40, and 43 have been amended with similar clarifying amendments. Claim 1 for example has been amended to state in part, "comprising an identification of a root node of the hierarchical data structure and a first leaf node" and claim 40 has been amended to state in part, "a predetermined hierarchical data structure comprising a root node and a plurality of leaf nodes". Support for the amendments can be found at page 5, lines 18-22 of the application. Neither Flanagin nor Kotzin individually or in combination render obvious claims 1, 20, 21, 26, 28, 34, 40, or 43 as amended. The Examiner's rejections shall each be addressed in turn.

With respect to claim 1 the Examiner asserts that Flanagin discloses "a method of transferring service settings to a first device from a second device, wherein the first and second devices each have the same predetermined hierarchical data structure, comprising: sending a data

transfer request identifying a first portion of the hierarchical data structure from the first device to the second device" (col. 2, lines 66-67 and col. 3, lines 1-19, Flanagin), "the first portion comprising data descriptive of service settings for a first service" (col. 4, lines 7-18, Flanagin). The Examiner admits that "Flanagin is not as detailed with the service settings being provisioned by a service provider" and asserts that Kotzin discloses provisioning by the service provider ([0021]-[0022], Kotzin). The Examiner also asserts that Flanagin in view of Kotzin disclose "receiving at the first device the data descriptive of service provider provisioned service settings stored at the first portion of the hierarchical data structure of the second device from the second device" (col. 4, lines 7-22, Flanagin); "storing the received data at the first portion of the hierarchical data structure of the first device" (col. 3, lines 1-13, Flanagin); and "using, at the first device, the data stored at the first portion of the hierarchical data structure as settings for a first service." (col. 4, lines 7-11)

The Applicant respectfully disagrees with the Examiner's characterization of the teachings of Flanagin and Kotzin.

First, the Examiner cites col. 2, lines 66-67 and col. 3, lines 1-19 as supporting the assertion that Flanagin teaches, "sending a data transfer request identifying a first portion of the hierarchical data structure from the first device to the second device" as claim 1 recites. However, Flanagin states in part from col. 2, line 66 - col. 3, line 9;

> FIG. 1 is a block diagram of a typical system or environment 2 in which the present invention operates. In the embodiment illustrated, the environment 2 includes a first mobile device 3A and a second mobile device 3B. Each of the mobile devices **3A and 3B includes one or more application programs indicated at 5A, 5B and 5C**, and a store 6 used to store objects, data files and/or databases used by the application programs 5A-5C. A computer, herein illustrated as **a desktop computer 4, also includes one or more application programs indicated at 7A, 7B, 7C and 7D**, and a store 8 used to store objects, data files and/or databases used by the

application programs 7A-7D.

As is evident, Flanagin neither suggests nor discloses, "hierarchical data structure" as stated in claim 1. An example of a typical hierarchical data structure is illustrated in figure 2 of the subject application. As can be seen this "hierarchical data structure" is not analogous to "one or more application programs indicated in 5A, 5B, and 5C" as stated above in Flanagin. Having similar programs on a mobile device as a desktop computer does not render obvious a "hierarchical data structure." One non-limiting exemplary embodiment of a "hierarchical data structure" is "a tree with leaf nodes (data files) and interior nodes (folders). A leaf node depends from an interior node but does not have any nodes depending from it, whereas an interior node has one or more interior nodes or one or more leaf nodes depending from it. Data can be stored in a data file at each leaf node." (page 5, lines 18-22, application) This example of a "hierarchical data structure" makes it clear that the disclosure in Flanagin does not disclose anything similar to the "hierarchical data structure" recited in claim 1. Thus, Flanagin does not disclose a "hierarchical data structure" as claim 1 recites.

Second, the Examiner cites to col. 4, lines 7-18 as supporting the assertion that Flanagin teaches, "comprising data descriptive of service settings for a first service". However, Flanagin states;

> The partnership information 10 includes configuration settings for services used by the user to transfer or copy data between the connected mobile device 3A or 3B and the desktop computer 4 as well as data necessary to perform a service. As used herein, a "service" is a single or group of functions made available to the mobile device that connects to the desktop computer 4 with the service installed. For example, a "Synchronization Service" is a service that specializes in the transfer of data between the connected mobile device 3A and the desktop computer 4, including replication or automatic file copy.

As is evident, Flanagin neither suggests nor discloses "data descriptive of...service settings" as claim 1 recites. The Examiner admits this fact in the Office Action dated 07/07/2009 stating, "Flanagin is not as detailed with the service settings being provisioned by a service provider." (page 3, 2nd paragraph) Reference with regard to the meaning of "service settings" may be found, for example at page 6, lines 3-30:

the file 56 provides the service settings for multimedia messaging (MMS). The file 56 provides the service settings for email. The file 58 provides the service settings for accessing the internet.

Each of the different service settings (i.e. the files 54, 56, 58) originate from the providers of the respective services (MMS, email, internet. Typically the service settings for a particular service are provisioned by the service provider of the service.

It is clear from the quotation above that Flanagin does not read on the "service settings" claimed in claim 1. The "services" disclosed by Flanagin, such as "Synchronization Service" or "file conversion service" or "synchronizing time and date clocks" are not described in the context of "service settings" as recited in claim 1. The "services" disclosed by Flanagin do not render obvious the "service settings" recited in claim 1.

Further, the Examiner then asserts that Kotzin "discloses provisioning by the service provider" at [0021]-[0022]. This assertion is incorrect. Flanagin in view of Kotzin's disclosure does not render obvious "data descriptive of service provider provisioned service settings". Kotzin is concerned with transferring content (particularly content subject to protection by digital rights management DRM software) rather than "service settings." Transferring of DRM software is not analogous to the transfer of "service settings" as recited in claim 1.

Third, the Examiner cites Flanagin at col. 4, lines 7-22 as supporting the assertion that Flanagin in view of Kotzin teaches, "receiving at the first device the data descriptive of

service provider provisioned service settings stored at the first portion of the hierarchical data structure of the second device from the second device" as claim 1 recites. However, this assertion is incorrect. Flanagin, as stated above and for the same reasons, does not suggest or disclose "hierarchical data structure" or "service settings" as stated in claim 1. Additionally, Kotzin does not cure this shortfall. Neither Flanagin nor Kotzin, individually or in combination, render obvious "hierarchical data structure" or "service settings" as claim 1 states.

Fourth, the Examiner cites col. 3, lines 1-13 as supporting the assertion that Flanagin in view of Kotzin teaches, "storing the received data at the first portion of the hierarchical data structure of the first device" as claim 1 recites. The Examiner also cites col. 4, lines 7-11 as supporting the assertion that Flanagin in view of Kotzin teaches, "using, at the first device, the data stored at the first portion of the hierarchical data structure as settings for the first service" as stated in claim 1. However, as stated previously, neither Flanagin nor Kotzin individually or in combination suggest or disclose "hierarchical data structure" or "service settings" as claim 1 recites.

The claims have been amended to even further clarify and distinguish them from the cited references. Independent claims 21, 26, 28, 34, 40, and 43 recite similar subject matter to that claimed in claim 1, i.e., "comprising an identification of a root node of the hierarchical data structure and a first leaf node". There is no similar disclosure or suggestion of this subject matter in the references cited and relied upon by the Examiner. Thus, for the reasons stated above, neither Flanagin nor Kotzin individually or in combination render obvious independent claims 21, 26, 28, 34, 40, and 43.

With respect to claim 20, the Examiner asserts that the combination of Flanagin in view of Kotzin renders this claim obvious. The Examiner cites to col. 2, line 66 – col. 3, lines 19 and column 4, lines 7-22 in Flanagin and [0021-0022] in Kotzin in support of this assertion. However, this assertion is incorrect. Neither Flanagin nor Kotzin, individually or in combination disclose "first and second devices each have the same predetermined

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hierarchical data structure" or "service settings" as claim 20 recites. As stated above, the claimed "hierarchical data structure" is not analogous to "one or more application programs indicated in 5A, 5B, and 5C" as stated above in Flanagin. Having similar programs on a mobile device as a desktop computer does not render obvious a "hierarchical data structure."

Furthermore, it is clear that Flanagin does not read on the "service settings" claimed in claim 20. The "services" disclosed by Flanagin, such as "Synchronization Service" or "file conversion service" or "synchronizing time and date clocks" are completely different from the "service settings" recited in claim 20. (col. 4, lines 7-22) The "services" disclosed by Flanagin do not render obvious the "service settings" recited in claim 20. The Examiner also cites to [0021-0022] of Kotzin. However, Kotzin's disclosure does not render obvious any part of the Applicant's invention. Kotzin is concerned with transferring content (particularly content subject to protection by digital rights management DRM software) rather than "service settings." Transferring of DRM software is not analogous to the transfer of "service settings" as recited in claim 20. Therefore, neither Flanagin nor Kotzin render obvious claim 20 and claim 20 is in condition for allowance.

Additionally, Kock, Mirouze, Cooper, and Novak are unable to cure the above mentioned shortfalls of Flanagin and Kotzin. None of the references made by the Examiner either individually or in combination render obvious the subject application.

In that all of the independent claims are clearly allowable, then all of the dependent claims are also clearly allowable for at least this one reason alone.

Further, the Applicant respectfully disagrees with the Examiner's assertions in the Response to Arguments section of the Office Action dated 07/07/09. The Examiner's arguments in the Response to Arguments section will be addressed in turn.

First, the Examiner asserts that Flanagin at column 3, lines 1-20 discloses having "the same predetermined hierarchical data structure", that Figure 1 in Flanagin discloses "a data transfer

request identifying a first portion of the hierarchical data structure", and that column 3, lines 1-13 and 44-55 disclose, "storing the received data at the first portion of the hierarchical data structure of the first device." However, Flanagin does not suggest or disclose a "hierarchical data structure" as recited in claim 1. A "hierarchical data structure" is not analogous to "one or more application programs indicated in 5A, 5B, and 5C" as stated in Flanagin at column 3, lines 2-3. Having similar programs on a mobile device as a desktop computer does not render obvious a "hierarchical data structure." A non-limiting example of a "hierarchical data structure" is "a tree with leaf nodes (data files) and interior nodes (folders). A leaf node depends from an interior node but does not have any nodes depending from it, whereas an interior node has one or more interior nodes or one or more leaf nodes depending from it. Data can be stored in a data file at each leaf node." (page 5, lines 18-22, application)
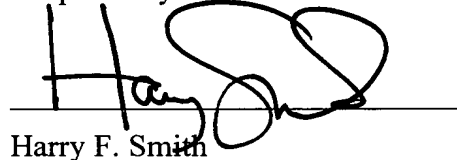
Second, the Examiner asserts that Flanagin in view of Kotzin discloses "service settings" as claim 1 recites. The Examiner cites to column 3, lines 48-52 and column 4, lines 7-22 in support of this assertion. However, neither Flanagin nor Kotzin suggest or disclose "service settings" as stated in claim 1. The "services" disclosed by Flanagin, such as "Synchronization Service" or "file conversion service" or "synchronizing time and date clocks" are completely different from the "service settings" recited in claim 1. The "service settings" disclosed in claim 1 are "internet access, messaging services, remote storage services, e-mail, etc." (page 1, lines 21-22, Application) The Examiner also cites to [0021-0022] in Kotzin. However, this does not cure the above shortfall. Kotzin's disclosure concerns the transferring of content. Also, even if one combines the teachings of Kotzin and Flanagin it still falls short. For instance, if for arguments sake it were assumed the content in Kotzin could be considered the services in Flanagin it still comes up short because the services in Flanagin are not "service settings", but synchronization services or file conversion services. These services are completely different from "service settings."

The Examiner is respectfully requested to reconsider and remove the rejections of the claims under 35 U.S.C. 103(a) and to allow all of the pending claims as now presented for examination. An early notification of the allowability of all of the pending claims is earnestly

solicited.

Respectfully submitted:

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